

Mr. Keawe: I move that we take the Department's recommendation of a two (2) year extension for this Applicant.

Mr. Mahoney: Second.

Chair Anderson: Okay. Discussion?

Mr. Mahoney: Madam Chair, I think that's fair enough and it's not like it's a punitive measure; this is part of the temporary permit. Everything's going fine and I'm sure it's going to continue that way. I think that maybe at the next juncture when they reapply, maybe it could be extended, but I'm willing to go with the Department at this juncture.

Chair Anderson: Okay. Any further discussion?

Just to clarify, the motion is to approve the Director's Report. I'd like to just have the Planner go ahead and read the final recommendations.

Mr. Cua: So, Condition No. 10 would be amended to read as follows: "The use of the subject property to conduct botanical garden tours shall be temporary and can be conducted for an additional two (2) years until July 23, 2017. Additional extensions may be granted for longer periods of time by the Planning Commission provided adverse impacts are not generated that affect the public health, safety, and welfare, as well as the surrounding environment, and conditions of approval are complied with."

Chair Anderson: So we had a motion and a second. All those in favor? (Unanimous voice vote) Any opposed? Seeing none, the motion carries 6:0. Thank you.

Mr. Robertson: Thank you.

Chair Anderson: Okay, we're going to take a caption break at this time and we'll return in fifteen (15) minutes. Thank you.

The Commission recessed this portion of the meeting at 10:43 a.m.

The Commission reconvened this portion of the meeting at 11:01 a.m.

Chair Anderson: Call this meeting back to order.

Request for Extension of Time on Conditions 16 and 17 of the Planning Commission's conditions of approval dated March 10, 2015 related to Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6, Tax Map Keys 4-1-003:004 (por.), 005, 007, 011, and 017 and 4-1-005:014 and 017, *Coco Palms Hui, LLC*, by Ron Agor, Architect (7/7/15).

Mr. Dahilig: Madam Chair, we are on Item I.4., request for an extension of time on Conditions 16 and 17 of the Planning Commission's conditions of approval dated March 10, 2015 related to Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit PDU-2015-7, Variance

Permit V-2015-1, and Special Management Area Use Permit SMA(U)-2015-6. This is for Tax Map Keys 4-1-003 parcel 4, 5, 7, 11, and 17, and 4-1-005 parcel 14 and 17. The applicant is Coco Palms Hui, and Ron Agor is the Architect in this matter.

Madam Chair, you do have our Department recommendation concerning this as Item I.4.a., Page 351 of the PDF. The Department does not have any objections to the extension of time; however, we would like clarification concerning conditions related to the mitigation measures concerning the cultural impact mitigation actions, and you will see those as changes related to Conditions No. 1 and 2, as well as mitigation measures relating to traffic on Item No. 10. Again, we are requesting clarification of the language and setting dates certain to September 30, 2015 for those. So that is the Department's recommendation at this time, Madam Chair.

Chair Anderson: It's been brought to my attention that there may be members of the public that would like to testify on this agenda item. So at this time, I'm going to give the public that opportunity.

Please step forward.

Jennifer Lim: Thank you, Madam Chair and members of the Commission. My name is Jennifer Lim. I'm an attorney and I represent PR2, LLC, which is an LLC under Prudential American Insurance; that's our client at Carlsmith Ball. Prudential is actually the landowner, and Coco Palms Hui, the applicant who is before you today, was under contract to sell the property to Coco Palms Hui. We wanted to give very simple, brief statements to say that we support the Applicant's request for the time extension. We very much appreciate the preliminary feedback from the Director and we hope that the Commission will grant this request. That's it. I'm available for any questions, but we just wanted to put our comments on the record.

Chair Anderson: Okay, thank you.

Ms. Lim: Thank you.

Mr. Dahilig: Madam Chair, we provided our recommendation to the Commission. If the Applicant would like to have a response to the Director's recommendation on this matter, we are available to answer any questions.

Chair Anderson: So if the Applicant can step forward.

Ron Agor: Good morning, Commissioners. My name is Ron Agor for the record, and I have with me, Tyler Greene, the Applicant. What prompted the request for extension on Items 16 and 17 was our performance on conforming to Item 3, Condition No. 3, which is the SHPD's requirement. I am happy to report that all respective Departments have completed their review and have approved that, and have forwarded their letters to Mary Jane, our Archaeologist, who will be preparing a letter to the Planning Director confirming compliance of Item No. 3. What we are trying to accomplish right now is pulling the demolition permits. I believe we have twenty (20) demolition permits we're looking at. Once we get the letter from SHPD, I believe fifteen (15) of those demolition permits will be available, and we worked it out with Building

such that we will be applying for new permits for five (5) of the buildings, and then we'll be on our way. In the meantime, I'll have Tyler Greene say what he wants.

Tyler Greene: We just appreciate the Planning Director putting the time in this to kind of clarify the conditions. We are fine with the Planning Director's suggestions and are in agreement with what was put together.

Chair Anderson: Does the Commission have any questions for the Planning Director or for the Applicant?

Mr. Mahoney: I have a question. Do you foresee any other delays that are coming up? This project here, as we all know, a lot of faith was put into it. A lot of people, reluctantly some that gave the green light, and this was like the last hoorah for Coco Palms. A lot of people are rooting for it, so do you foresee any other delays or problems?

Mr. Agor: In terms of the permitting, not really. I mean, we are cautious of the fact that we are applying for five (5) new demolition permits. I am trying to get clarification from the Health Department right now. Part of the requirements is to...when you apply for demo permit and you're going to demo after you get the permit, you have to get a pest control guy out there to get rid of all the rats, yeah? I'm trying to get time periods from pest control guys, and they are saying that structures that large, properties that large, might take them as long as thirty (30) days to get rid of the rodents. That's the only thing I can see on the permitting side.

Mr. Mahoney: Okay, thank you.

Chair Anderson: Other questions?

Mr. Keawe: So you don't envision any other delays with regard to the actual permit process itself? Because you have the SHPD stuff coming.

Mr. Agor: Yes.

Mr. Keawe: And that was key? According to what you said, that was very key to what you needed to do.

Mr. Agor: Yes.

Mr. Keawe: Now, how many demo permits do you have to pull in total?

Mr. Agor: Twenty (20).

Mr. Keawe: Twenty (20)?

Mr. Agor: Yes.

Mr. Keawe: Individual ones?

Mr. Agor: Individuals.

Mr. Keawe: Alright, so you pulled the first five (5), and then what happens after that?

Mr. Agor: No. There are fifteen (15) of them that could be available to be pulled after we get SHPD's letter to the Planning Director and the Planning Director says okay, release the permits.

Mr. Keawe: Okay.

Mr. Agor: At the same time, we're applying for five (5) new permits; a total of twenty (20) buildings.

Mr. Keawe: Right. Five (5) will be new and fifteen (15) will be based on what was already submitted.

Mr. Agor: Yes.

Mr. Keawe: Okay. And then from there the process is?

Mr. Agor: We get the demo permit, it gets funded, escrow gets closed, and demolition begins.

Mr. Keawe: Okay. And the anticipation, how long on the demolition? The time limit?

Mr. Agor: I can't.

Mr. Greene: We hope to be through the demolition in four (4) to six (6) months.

Mr. Keawe: Four (4) to six (6) months?

Mr. Greene: Yes. There was an issue with capacity here at the landfill on Kaua'i, so we will have to ship that rubbish off to O'ahu, which is part of the factor of the timing of that.

Mr. Keawe: Right, okay. Once that's done then you're into construction?

Mr. Greene: Then we roll into the construction, yes. So the hope is that we'll be processing the building permits right after we start the demolition.

Mr. Keawe: Okay.

Chair Anderson: Any other questions?

Mr. Abrams: Yes. I'm interested in making sure we are all clear on first, building permit and Commission approval, okay? I take it that there was some misunderstanding on your part, I guess, from that definition. Now we are looking at dates specific.

Mr. Agor: We are accepting the Planning Director's recommendation.

Mr. Abrams: Okay, so...never mind. I'll just sort of leave it at that point.

Mr. Agor: Yeah, I don't want to go there.

Mr. Abrams: Yeah, okay. At that point, I would be really concerned if those two (2) conditions go past this deadline that are the subject of your request to extend. So, that's the deadline that 16 and 17 call for, the contributions for the cultural and bus stop information.

Mr. Agor: Yes. We are accepting it, crossing our fingers that we are going to get cooperation in getting the demolition permit as soon as we can. If it drags out to this time period, we're not going to have funds to pay.

Mr. Abrams: Alright, thank you.

Chair Anderson: Any other questions?

Mr. Dahilig: I guess our conclusion, Madam Chair, again, is we believe the Applicant's request for the time extension, largely in part due to work with SHPD to mitigate cultural impacts as required by law, is reasonable and we are more than happy to concur with their recommendation for that extension of time to October 15th, as well as the amendments to Conditions No. 1 and 2 and 10 to clarify the other deadlines for mitigation related to cultural impacts and traffic impacts.

Chair Anderson: Do I have a motion?

Mr. Mahoney: Madam Chair, move to approve.

Mr. Katayama: Second.

Chair Anderson: Okay, discussion?

To clarify, the motion is to approve the extension request with the recommendations from the Director of Planning's amendments to the conditions as set forth by the Director.

Mr. Mahoney: Correct, Madam Chair. Thank you.

Chair Anderson: Okay. Any other discussion? (None) All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 6:0. Thank you.

Mr. Dahilig: Thank you, Madam Chair.

Amendment to Class IV Zoning Permit Z-IV-2001-16, Use Permit U-2001-12 and Special Permit SP-2001-7 involving modifications to a cellular telecommunications facility, Tax Map Key 5-2-004:049, Kilauea, Kaua'i = Verizon Wireless.

Mr. Dahilig: Madam Chair, Item I.5. This is an amendment to Class IV Zoning Permit Z-IV-2001-16, Use Permit U-2001-12, and Special Permit SP-2001-7 at TMK 5-2-004:049.

Madam Chair, we've been trying to get in contact with the Applicant to give the notice of the scheduling for this item this morning. We are aware that he is not in attendance. We will try again. He has not returned our phone calls, so he may be out of state or out of the country. We request to defer Item I.5. to the September 8th meeting to allow further notice to the Applicant on this matter.

Chair Anderson: Okay. Do I have a motion?

Mr. Abrams: Move to defer amendment to Class IV Zoning Permit Z-IV-2001-16, Use Permit U-2001-12, and Special Permit SP-2001-7, Verizon Wireless, to September 8th.

Mr. Mahoney: Second.

Chair Anderson: Okay, any discussion? (None) All those in favor? (Unanimous voice vote) Okay, motion passes 6:0.

COMMUNICATION (For Action) (NONE)

Mr. Dahilig: Thank you, Madam Chair. We are on Item J, Communication for Action. There is none this morning.

COMMITTEE REPORTS (NONE)

Mr. Dahilig: As well as Committee Reports. There are none this morning.

UNFINISHED BUSINESS (For Action)

Mr. Dahilig: Unfinished Business, we have nothing for action.

NEW BUSINESS

Class IV Zoning Permit Z-IV-2015-37, Use Permit U-2015-36 and Special Permit SP-2015-14 to allow conversion of an existing residence into a homestay operation on a parcel located along the eastern side of Menehune Road in Waimea Valley, further identified as 5390 Menehune Road and Tax Map Key 1-5-002:047, and containing a total area of 37,407 sq. ft. = Giuseppe Gereke-King.

Mr. Dahilig: And under New Business, we do have two (2) applications for action this morning, Madam Chair. Hearing has been closed and action is available on Class IV Zoning Permit Z-IV-2015-37, Use Permit U-2015-36, and Special Permit SP-2015-14 at TMK: 1-5-002 parcel 47. Applicant is Giuseppe Gereke-King.

Marisa Valenciano is our Planner on this matter and will be presenting the recommendation on behalf of the Department.

Chair Anderson: Okay. If we can hear from the Planner now.

Staff Planner Marisa Valenciano: Good morning, Madam Chair and members of the Commission. I'm going to try to summarize my report.

Ms. Valenciano read the Actions Required, Project Description and Use, Additional Findings, and Preliminary Evaluation sections of the Director's Report for the record (on file with the Planning Department).

This concludes my presentation of my report, and I'll hold off until the recommendation and conclusion. Thank you.

Chair Anderson: Thank you for the thorough evaluation.

If I could have the Applicant please step forward. Your name for the record.

Ms. King: Giuseppe King.

Chair Anderson: Have you had the opportunity to review the Director's Report?

Ms. King: I have and I don't understand. When I look at the documentation that I provided to document my farm income and production, my calculations come up to a little over 74% of my income from farm activity and farm related products; whereas, 26% of my income is from homestay. Of that 26%, 45 is taxed off the top to the County and the State, so I'm confused. If I've met all of the existing requirements, why am I being denied if 74% of my income from farming is substantially more than 25% (sic) from homestay? So that's a concern for me.

I am farming. I'm trying very hard to farm. I designed my house when I was 7 years old, and I built it with my own hands, so I take a lot of pride in my property. I have an irrigation ditch that runs from the top of my property to the back of my property. It's well over 600 feet long that I hand dug by myself; it took me several months to do. Certainly after that, I installed an irrigation system, PVC irrigation system, in my backyard to irrigate what the ditch doesn't irrigate.

Keeping in mind that my property is less than an acre long; it's rectangular in shape. The beginning of my property is un-farmable because the Menchune Ditch has a little leak that's all rock in front of my property; it's all rock and boulders, so you can't excavate that and plow that or else the Menchune Ditch will leak, as it was when I purchased the property and had to have that repaired. Then there's my house, then there's my septic system with a leach field, and then there's the river, so really I have a couple of hundred square feet of actual farmland to farm.

Shortly after I built my house, created my ditch, put in the spray-on ground cover, and my irrigation system, less than two (2) months later we have a flood that washes everything away; fills up the ditches, washes all of my gardening away, washes all my plants that haven't been planted, all of it

is washed away. And then of course it rained for three (3) more months after that, which then required months of drying out and months of cleaning. I had to start all over again with my irrigation ditch, by hand, after months of having back hoe work because my land was no longer flat. There were 3-4 feet tall dunes throughout my property, which had to be rectified. Then I started all over again. This is an ongoing process in trying to farm in ag land in a flood zone. It's not just a flood zone, it's a flood basin because I'm 9.99 feet below sea level. Because I'm so far back in the Valley, we are surrounded by these big, beautiful poly's. We have a wind issue; I'm like a vortex. I have this big, it's getting bigger, it was big at one point, banana patch. I sell those bananas to Nana's Bananas, so she can make her dried bananas. December 2012 we had a bad storm, and one (1) big wind whipped through the valley and snapped every single one of my trees; just about at the bottom. KIUC had to come and cut them all off the wires because they were hanging on the wires. They are just now starting to grow back and I think this year I had three (3) bunches of bananas; not very profitable.

What I've learned to do is grow seedlings and grow starters and sell things that are in pots, with the exception of my agave, my canna lily, and my tea. I grow them specifically for the seeds, which I use in my product production; which I make soaps and lotions. They are very, I want to say high-end, very precisely made for limited production. Some things I can mass produce, some things I can only produce so much seed, but those products that I produce from the seeds add value to my products and add a price tag to my products because they are seasonal.

I will give you one (1) example, without giving away too much proprietary information, tea. Tea produces seeds. They produce berries with little tiny seeds inside of them. It's those seeds that I use in this gelatinous cream that I make for cuticles, like that minute manicure, but I have the seeds in there, so they are like an exfoliant, and they're grown on Kaua'i, so they warrant a price tag. They are seasonal, but this year had somebody investigated my property or inspected my property they would see that I had a great harvest this year. It's only every couple of years that I get that many seeds from tea. This year I have a box, this big, and all the seeds are drying. It might not look like much, but it only takes a few seeds for half an ounce jar of lotion, so that amount of seeds takes hours to pick through and separate from the shell. That's just one (1) example of many of my products that I use from my seeds and from my land. I also grow luffa. I also grow things that I sell in pots like agave; this year was a beautiful year for agave. I make these really cool little bowling balls with an agave sticking out. I have help with the artistic part because I'm not artistic.

With that said, I have been operating my bed and breakfast for many years without any complaints. I appreciate the respondents that have shown up today to argue the point of having a bed and breakfast. Even though they are absentee landowners, they still have a right to voice an opinion. I appreciate their opinion. I also would like to take into consideration the opinion of the neighbors who are actually on-site and would be impacted by my operations, and they are supporting my operations; they are in view of me, they are in relation to me. The people that are in opposition to me are invisible to me. It takes a lot of work if any of my tenants were really going to make an effort to get to their property. It's virtually non-accessible. I appreciate their fears, but they are hypothetical fears. Should something happen, then we should look at it at that point.

The word that I was trying to remind myself this morning was "references". The people that come into my house all have references. Airbnb provides references. You can't join Airbnb to advertise

your property or to rent a property without some sort of vetting process. So you give them all of your information, and then they have to confirm that information before you are even allowed on the website as a host or as a guest. Once you are on the website, if there's any problem with that guest, you are allowed to leave feedback on that website. So when people are inquiring to my bed and breakfast, I can look at what other people have said about them; whether it's good, they're clean, they're not. I can turn down people without problem. This is my home, I built it with my own hands. I live there by myself. I take it very seriously. I'm kind of introverted and I spend a lot of time at my house. When I get a guest that makes a comment like "do I have to pay a cleaning fee?" or "can you reduce this fee?" immediately I delete because that's the first sign that they are going to give me an argument or a stink, and I just don't need it; I don't need it. The homestay is a great supplement to my farm. I want to stress that this is only temporary; it's not an end means, it's a means to an end for me as I build my other businesses because I do like my privacy.

At one point, I'd really like to be able to afford, and I mean afford not financially, but time wise, to write a book. And that little vacation rental, that I vacation rent to live near myself sometimes, would be the perfect place for me to have my man cave to actually write a book. But that could be two (2) or three (3) years down the road because I'm just trying to swap careers. Right now, I'm in the financing business, which is not fun, but it is how I generate my income.

Anyway, I request that my application denial be reconsidered for approval under the circumstances that I have fulfilled all of your requirements, I do earn more money off my farm. Look at my fingernails and tell me I'm not farming.

Aside from farming, things that I do with my land that you can't get paid for is that I host horses; I have one (1) there now. My neighbors up the street don't always have enough money to feed their horses. I'm hosting their horses right now on my property. I can't get paid for that. They might give me a box of tomatoes or some papayas in exchange for that. The fishermen that come once a year to fish for O'opu. I have the only access available to the river. I have no problem with the certain individuals that come. They set up their little camp at the back of my property and they fish for O'opu. These guys are very serious when they're fishing. They have, what looks to me to be, expensive gear and they take a lot of time fishing for O'opu. I don't ask them for any money. Now what I feel is that I have to tell them, I can't afford that aloha because I can't show it on my tax returns in order for me to supplement my income, in order for me to keep my business going. I have to tell my neighbor down the street that I can't host his horse anymore because I can't afford that aloha. I have eleven (11) chickens showing up, maybe today, and I had this vision about where am I going to put these chickens so I can have this exit plan in my flood preparation. Now, I have an area at the top of my property where I can put my chickens. I have this dream that one day I'm going to go over to my next door neighbor and leave him a basket of eggs with a thank you on it for no other reason other than just to give him eggs. I think they would really appreciate that. Now I'm thinking I can't afford to give my eggs away; I have to sell them because I can't afford the aloha. It's really disappointing in the spirit of what I'm trying to do and the spirit that I feel that this island, in general, is supposed to offer. I think that sums it up.

Chair Anderson: Okay, thank you. Does the Commission have questions for the Applicant?

Mr. Abrams: I do. Jo, you had talked about the revenue and the criteria that the Planning Department uses to evaluate bed and breakfasts. I need some help in going through that process. I see it firsthand and then I can see some other numbers that are there, so maybe it's a process of you explaining and Planning explaining, but I'm not sure exactly how that criteria got evaluated in order to come up with that decision.

Mr. Dahilig: Madam Chair, for the Commissioners' information, this is the July 28th packet starting on Page 414, Exhibit B of the report; just for your information.

Ms. Valenciano: Commissioner Abrams, so from the Department's side, based on what we received from the Applicant and part of the Applicant's application, the Department determined that there wasn't adequate information provided for the Department to feel comfortable enough to determine that the homestay was ancillary to the farm operation.

Mr. Abrams: Yes. So I'm looking at the N-1 Schedule that has these numbers here. I also see, I guess, the GET, which is part of the way you evaluate. And then I look at the Federal return, which shows a different set of numbers; although the Feds go a little bit differently from what the State has it listed down, but still it's a business. Are you looking at gross revenue? Is that what you were looking at? Or net revenue?

Ms. Valenciano: I can just share, for example, on the Schedule F, we were looking at farm income compared to the rental income. From that, also taking into consideration just the overall documentation that was provided. And based off of that, it resulted in the Department's determination that we didn't feel comfortable enough to make that determination that the homestay was accessory to the farm operation.

Mr. Dahilig: I think one (1) thing we also want to throw into consideration is that there is a Schedule F, there is a Schedule E, but there is also a Schedule C. I think if you look at what has been presented and when you look at what all of it as consolidated under the Schedule 1040 looks like, it's hard for us to ascertain that a true agricultural operation is being conducted. Now I know that there is revenue that's being proposed, about \$10,000 from farming, and that the Applicant does state that some of that is being used as part of a value-added process with soaps, lotions, and lip balm. But when you look at the way the Schedule C reads, in addition to what has been presented as a profit and loss on that side, it's very difficult for us to, with confidence, say that we look at the Schedule C as being reflective of a true ag value-added process, or else those items would have been included as part of the Schedule F. So that's where our concern is, is that the tax documentation may be presented to possibly verify the Applicant's assertion that there is some value-added elements as part of the farming, but when you look at it as an aggregate, as in terms of the first page of Form 1040, we are, in the totality of circumstances, concerned about whether or not ag is the emphasis; ag is the emphasis activity on the property. So that's why in our evaluation cannot, with confidence, say that we believe the homestay is, in fact, ancillary because what you are seeing is a loss if you actually add the farm plus the value-added elements, presuming that the Applicant's assertion that there is value-added activities going on, on the property. Both the Schedule C, as well as the Schedule F added together still result in a loss. It results in a loss. We have concerns about that and whether or not there is, again, true ag being conducted in the spirit of ag. On top of that, whether or not there is a true value-added process that is going on. I

think when you look, even at the materials that are being purchased as part of the profit and loss statement, you look at it at almost \$10,000, as compared to \$17,000 in gross receipts revenue, is just material cost alone. And these are materials that are not grown on the property. These are materials that are not coming as a consequence of being homegrown or being produced on the property, or else you would not see that line being such a high number. Again, this is just evidence in terms of the way we are interpreting it, whether or not, again, with confidence, we can say that there is a spirit of true agriculture being conducted on the property. She is representing before the IRS that there is agriculture, but you know, again, we want to see from a policy standpoint that the emphasis of the property is agriculture, and not things that are not agriculture. So that's the root of our evaluation and I'm sure the Applicant disagrees with that interpretation, but that's our evaluation and why we've recommended what we recommended.

Ms. King: Can I ask a question?

Chair Anderson: We'll have questions from the Commission, so are there any other questions from the Commission?

Mr. Abrams: I get product, that you're growing farm stuff, and then what you are telling me is that marketing of those products that bring in revenue, which are...I'm looking at the State Schedule N-11 and look at Page 404, where it asks them if you filed a Federal Schedule C, which she says yes, and their gross receipts are \$17,350. And then they ask her about Schedule E, which is regarding any rental activity, which it says yes \$10,061. At which I take a look at the GE reports and that does substantiate that. Then the Schedule F, which is the same outside of open market, and lotion-soap-lip balm; seed-leaf-plant, and lotion-soap-lip balm; and she has \$11,000. I'm not sure where either any one of those numbers taken in singular do exceed the rental income. If you're looking at intent or I need to sort of understand where that led you to believe where these numbers are because these are what they file and I always thought that it was those numbers, whether it was gross or net or sold up or whatever is farmed. I haven't ever seen any discussion relative to that in our decision-making process and I would certainly like to know how that works, and maybe Wayne can also add in, in regards to that because he has been very thorough with the revenue, etc. I would be curious to get some more feedback on that.

Mr. Dahilig: Facially, if you were to look at gross receipts and you look at it just from a farm Schedule F to Schedule E comparison, on that note, yes, we would say okay, we agree with the Applicant's perspective that okay that exceeds that, but we're looking beyond just that comparison. Given some of the previous discussions we've had with the Commission, there is a desire for us to really drill down and understand that totality of the activity on the property. Looking at beyond just the gross receipts as a bright line, we start looking at the economic activity on the property as whether or not it does, in effect, give the impression that there is an intent to predominantly use ag. There is a third use, apparently, given what is proposed. We are very supportive of value-added types of situations. It's something that we encourage through our recommendations many times on Special Permits to allow value-added types of activities. State law, in fact, allows it to occur without Special Permit. We're not trying to say that value-added activities are not agriculture, but when we start looking at the numbers in terms of where the value-added activities are occurring, how that interfaces with the Schedule F in terms of the amount of actual ag activity being represented as occurring, we start looking at, okay, is it a situation where the ag is ancillary

even to the business activity or is it totally integrated into what is a value-added process? It is one thing to talk about creating, let's say, rum or liquid from products that are derived directly on the property. What we see here is a situation where you have things that are grown on the property thrown into products that, you know, based on just the data, again, I can get disagreement, but thrown into products that are predominantly purchased and then resold. I think, from a standpoint of looking at that as a system, whether the ag activity is integrated into the commercial activity and that furthers the actual perpetuation of that policy desire to create more and more ag opportunities on the island, I think we have concerns about whether or not what is being represented is truly agriculture. I think that's why you see the evaluation being that we don't think that it is, as compared to the rental income that comes in, even though facially it may be that the gross receipts, just on the Schedule C/Schedule E comparison alone, would be meeting a so-called "bright line standard". I hope that helps articulate a little bit more of our understanding of what we're reading between the lines here.

Mr. Abrams: Okay. So, then I'm looking at Schedule F, which is the ones that would be...because it shows \$11,339. It shows expenses of \$6,309 with a net farm profit, which may have made you feel that that was maybe a determining factor, which means that these other numbers that are in there (custom hire, mortgage, those type of thing) may not be farm related. Is that what you're saying even though it is a write-off?

Mr. Dahilig: I think we're looking at it more as, here's what's in Schedule F, and part of it is because the Applicant had represented in the application that she is doing value-added products. I think that's why we tie the Schedule F and the Schedule C together because of that representation. In as much as I'm looking at this as a silo, what, in effect, we're looking at is a net profit of \$5,030, but then a loss of \$8,000 on the value-added side. So in effect, you're looking at an operation that is not soluble given the representation that this is one (1) system. The soaps are derived from products on the property. So that's why Schedule F and Schedule C are, in effect, kind of read together, as compared to Schedule E. If you look at it from a standpoint of the bottom line versus the gross receipts, it becomes kind of a policy question whether or not we would interpret farm loss as being more or less than the supplemental income from the rental.

Ms. King: I'm always going to have a farm loss. I'm always going to be rebuilding. I'm in a flood basin.

Chair Anderson: There's been discussion on the analysis from the financial information you supplied. If you want to clarify something; I hear your comments about the farm loss, and this has been testimony in other matters. But what we have before us is just one (1) year's tax returns, so if there is other information you would like to provide now in response to the Department's analysis, please clarify.

Ms. King: I don't have...I didn't bring anything else to you. I mean, I guess I could've brought receipts for this hired labor to clean up the trees that fell down in my backyard and squished my plants. I mean, that's what happens when trees fall down. I mean, sort of bringing in the backhoe operator to testify that he really did come and clean up my backyard, and take away those trees. I'm just at a loss of what else I can provide.

Chair Anderson: There has been some assumptions regarding the materials that are used. Can you describe your value-added? I know you gave the example about the tea seeds. Can you describe the value-added activity and how that relates to the farm?

Ms. King: Well, they are all grown and harvested off my property. Tea is just one (1) example without giving away too much proprietary. I've been working on this soap company for a number of years now. I had partners, and everything at that point was run through my S Corporation because I had partners. We actually built the building, and we opened up business. Then we were illegally evicted from our building, spent three (3) years in court, and I'm still waiting to hear if I'm going to get the building back or reimbursed for that building. I don't really actually ever hear of anything like that. George Costa was a very big part in playing with me in trying to get this off the ground and get this project moving forward. When we lost the building, because the owners changed their mind, that's what they told the Police Officer, send them over there to my house and tell her that we changed our mind about renting her the building. This is after I've already invested substantial amount of time and money into the building. At that point, my investors, after a couple of years in court, decided that they were pulling out. There was this time I had to wait after they pulled out, so that our contracts expired and I can, basically, own my company name all by myself once again. So here I am, picking the pieces up again, and trying to start this company on my own with one (1) partner and individual salespeople that sell my product on a test market. Because I'm doing this all on my own, I'm doing a test market, rather than trying to invest another \$100,000 and rent a building with no legitimate legal recourse in case something like that happens again. I mean, once bitten, twice shy right?

Chair Anderson: I just want to steer you back to the question. We're looking here to just clarify. This is our analysis as we have to determine whether or not the homestay is ancillary; is a small part of the operations of the farm. We are trying to determine whether or not what the farm operations are, and if you're doing value-added, how is that related to the farm operations. You've given one (1) example with the tea, and it doesn't have to be proprietary; you don't have to describe the exact plan, your ingredients, and breakdown the process, but just for our information so we can evaluate whether that falls within farming or if that's a separate commercial activity. Let's say you're selling lotions. If you're just purchasing lotions wholesale and selling them, that's different than a certain percentage of the material being actually from the land. So that's what we're trying to determine.

Ms. King: If I knew somebody on the island that was making coconut oil and avocado oil, I would be buying it from them. Those are the products that I do import. Beeswax is one thing I'd like to get off-island, but right now it's more convenient for me to buy it. I don't use that much of it. The beeswax is in my lotions. Also in my lotions is fresh aloe vera, and that's something bought in a bottle. So I have lots of aloe vera, and I just had another truckload dropped off last night, as a matter of fact. I am scraping the aloe vera into my lotions. I go to the tamarind trees...now this is where I'm getting really proprietary.

Chair Anderson: So you don't have to do that. Just in terms of percentage, like let's say if you make a lotion, what types of plants that you're using on your property that are going into those.

Ms. King: I'm using the tea plants, I'm using my aloe vera plants, I'm using my luffa, I'm using the canna lily, I'm using the sand, I'm using the kukui nut shells, I'm using the tamarind; I'm sure there's more, but I'm under pressure. So I'm using all these to incorporate into my products so that my...oh, my taro, of course. That was the hardest part, is to learn to figure out how to both saponify and emulsify the taro root into a lotion or a soap. I have never seen that product on the market, and that's the basis of my product, is Waimea taro based products. There is a way to get that without the itchiness into the product. Being proprietary, I won't go into that, but there is a way to take my taro base and use that. I forgot that's the most important part. I'm trying to grow taro; I'm failing miserably, but I've got lots of taro friends across Makaweli that have been very grateful at helping me and giving me product to help get my products started, and to figure out how to get this into my product without causing injuries and itching.

Chair Anderson: Thank you.

Ms. King: I will add that there is a point that I'm quickly coming to that there isn't enough of my product to take it to the level that we're heading into, which is large retail accounts. Large retail accounts are going to require a lot more product than I can produce on my land. At that point, those small products that I can, these products that I can, are very exclusive and they will be sold in the store front. Right now, we're just doing markets, and doing test markets. I've got some products in Israel, I've got some products in Las Vegas, I've got some products in Indiana because I have distributors. I'm figuring out which products work and sell the best and generate the most income before I invest in a bunch of money to do it on a large scale.

Chair Anderson: Okay, thank you. Are there any other questions to the Applicant or to the Department?

Do we have a motion? Or if I can have the Department read off the conclusion. We've been discussing the denial, but if you can read the final conclusion before we go ahead with the Commission's recommendations.

Ms. Valenciano: Okay.

Ms. Valenciano read the Preliminary Conclusion and Preliminary Recommendation sections of the Director's Report for the record (on file with the Planning Department).

This concludes my recommendation and conclusion.

Mr. Dahilig: And Madam Chair, given that recommendation and what has transpired, the Department stands at that recommendation.

Chair Anderson: Okay. If there are no further questions for the Department or the Applicant, we'll need a motion to move forward.

Mr. Mahoney: Madam Chair, I recommend denial of Class IV Zoning Permit Z-IV-2015-37, Use Permit U-2015-36, and Special Permit SP-2015-14.

Chair Anderson: Is there a second?

Ms. Mendonca: Second.

Chair Anderson: Okay. Discussion?

Mr. Dahilig: Madam Chair, if I could just clarify the motion that the Vice Chair made, that motion also includes adopting Exhibit C?

Mr. Mahoney: Yes.

Chair Anderson: Okay. Any discussion?

Mr. Mahoney: I don't think it meets the criteria needed, and that's why I brought up the motion.

Chair Anderson: Okay. Any further discussion?

Ms. Mendonca: I can appreciate anybody working very hard in farming. I think we all agree that we would like to encourage farming in agriculture areas. But, based on what we have to work with in front of us, and I agree, we have no other recourse but to see that the Planner had to make that decision because it seems that way, that the homestay income shows to be more than what you would expect from the farming.

Chair Anderson: Other comments?

Mr. Abrams: Yes. I'm speaking against the motion. I'm torn. I understand to a certain extent, but I'm looking at a parcel that is Open/Ag and is not even an acre. There seems to be demonstrated, certainly, an intent to do the farming and has put together a program in order to make a living. I look at the tax returns, which were the criteria that has been used in regards to determining whether or not this is accessory to your farming activity. While you have value-added product to that, even if you took the two (2) alone and didn't take Schedule C, which is the value-added, you still show revenue from the farming more than the rental revenue. However, if you are going to start looking at nets on the farming, then you need to take a look at nets on the rental side. Even with that, it still shows more farming revenue than that. So we have a criteria that I'm still struggling with in regards to trying to determine whether this is an accessory use to the rental activity. That's really hard. I don't know whether or not we should be working on, and I know when we come up with the homestay rules and regulations that perhaps we're going to have this discussion in regards to it. I don't want to second-guess the returns; the numbers are there.

When we look at residential, we simply are looking in regards to whether or not there is an owner-occupant there. We even have an owner-occupant on farm, which is farming. Assuming this wasn't ag, it would definitely qualify for a homestay operation; while I understand very clearly, maybe that business decision that is being made.

This is troubling because it is part of her activity and I don't know whether or not I would feel comfortable in taking that away right now. I might be more interested if we came up with a renewal

that some of this would come back and perhaps the Department would look at it a little bit closer and they could apply it evenly amongst everything else that they're evaluating. But right now, I don't see that, so I would be more inclined to be opposed to the motion and look for something that would allow her to do her homestay operation.

Chair Anderson: Are there any other comments?

Ms. Mendonca: Yeah, may I (inaudible) for a minute? I can appreciate the fact that it's a small acre, it's in agriculture, and she's trying to build up the agriculture part of it. I certainly feel she's done a lot of work, and I'm not denying that.

What is of concern to me, is the fact that this is what she initially had planned to do, which is agriculture. And we spoke in other meetings the need to maintain agriculture and homestay is a supplement. Now it seems like she needs the homestay to do her farming or her agriculture. I'm not denying that she financially may need this, as she expressed earlier, but the question I would have is, where do we draw the line? This is farming, the people around her, the flooding; Waimea Valley for years has been known to flood, so there are certain types of products that can only be grown in Waimea Valley because of the flooding. I can express with great concern how difficult it is to farm in that area, but others have succeeded as best they can.

I'm with Commissioner Abrams when he said that it's difficult for us to make that decision because our guidelines are very vague right now using, like he said, if it was a residential, there would be another approach to it. But the question is, are we going to let farming become secondary with homestay being the source of income to do the farming? That's now my question. That's how I'm looking at it.

Mr. Katayama: When I review these applications, I think for me, the central issue is, at the end of the day, does the farming activity become viable and sustainable? If the answer is there are environmental issues, there are size issues, or just resource issues, then I think we have a question of zoning as more of a problem. As we go through our community plans, as we go through our general plan updates, I think that's where we need to address the issue. At this point, with the tools that we have and the criteria that we have, I think the key is, are these activities ancillary to farming? As opposed to the key support to maintain a farm. Or is this just an activity to fulfill the zoning requirements or the statute as it currently operates? If landowners purchase property with whatever zoning it is configured, I think it's their obligation to understand that and make it work.

Now, the line is not as bright, and we've struggled with a definition of farming, and at the end of the day, with the activities as described by the Applicant, there should have been other Use Permits involved, just as for manufacturing or anything else.

Mr. Keawe left the meeting at 12:08 p.m.

Mr. Katayama: And the homestay would've been just one (1) more application or use to the activity for that zoned land. I don't know if that's been applied for or approved. We had testimony by other people in pointing out things like the other activities on the property. Again, at this point

in time, the farming activity as Commissioner Mendonca has stated, my view is ancillary to really supporting other kinds of activities. I will support the Department's position on that. Thank you.

Chair Anderson: I have a few comments. I would like to wait; we just had one (1) Commissioner step out, so before we call the vote, I'll wait for the Commissioner to return.

I tend to agree with Commissioner Abrams, as well as Commissioner Katayama, that there are long standing zoning issues on vast (inaudible) of property that have been zoned ag, which, given the current subdivision of property, there are properties that may not be 100% appropriate for ag, and that is a larger issue that we have to deal with. What's before us with the Applicant, I commend the Applicant for her creativity. I know it's difficult to have a viable farm. We've been given testimony in the past, and so it's something that is a labor of love. I see the value-added products and the presentation in terms of the types of farming that she has been able to do on the property, as just a testament of that creativity in incorporating her artistic values. I think the effort for the farming is genuine. There are significant amounts of properties throughout the island where people are on ag and are not having a commercial business and selling farm and ag products, so I really recognize that there is that activity going on.

Mr. Keawe returned to the meeting at 12:11 p.m.

Chair Anderson: The difficulty we are weighing is to look at whether that activity is ancillary. We've used tax returns as a proxy and I think it's not perfect; it helps paint the picture. Here, we have one (1) year tax returns, and from that, we also have the Applicant's testimony. I think in the future, looking at it, we can (1) it's not necessary that a year is going to paint the whole picture; that you may have ups, you may have downs, and that the homestay actually helps to support farms, so that people can maintain some sort of equilibrium during the hard times. I would be supportive; I believe there is enough in the record to show that the homestay is, in fact, ancillary to the farming activities.

Are there any other comments?

Mr. Abrams: Yes. Mainly, I understand, Commissioner Katayama, what you are saying. I am looking at this from the standpoint of ag in general, where now we have moved in the direction of defining our important ag lands. That process that was the most important to be done, and I believe that has been completed. Those lands are the ones that are the most important. The lands that are not important ag lands, and I guess there will be a little more determination on it, is going to probably end up being some of these ag lands that are smaller, or are on not as good soil, or on steep embankments or hillsides. To go ahead and say that someone is going to have to farm that as a source of their income without having the ability to try and do something different, notwithstanding the fact that we are heading in the direction that we're only doing...excuse me I can't remember, was it ten (10) permits per year?

Mr. Dahilig: From now on.

Mr. Abrams: Yes. It's not that much, so I get it. I also recognize that some of the most important ag land that we've had in this state didn't make money either, but yet it was there to stay in that. I

don't think applying that rationale to smaller parcels make sense to me at this point right now. I would rather see someone who is doing farming that comes this close to be able to go ahead and continue doing that, and review it in a year. But I understand that process. This is just the mindset that I come from in opposing this motion.

Chair Anderson: Any other comments?

Mr. Katayama: Just one (1) comment. I think the discussion is very healthy, and I think we should do it. In my mind, moving forward, I think the distinction that we need to make is between intensive ag use and non-intensive ag use; that's one (1) definition. For properties that view themselves as non-intensive ag use, but still want ag activity, we could address that separately. However, for the properties where there is very limited commercial agricultural activity or potential, I think we should treat that differently from agriculture. And that, historically, has been the issue with land use here on the island of Kaua'i in that the land use and designation have lagged in terms of support. As homestays become more intensive use by people, you need to have the support of infrastructure by the community. From a Planning perspective and having agency properly support that, we need to be a little more precise in how we designate that. Now, if we say that this area, Waimea Valley, is not suitable or is only for non-intensive ag, so be it, but if we are going to allow more higher residency or higher people traffic, we need to understand that as well. Again, based on what we have today as tools, that's a criteria we need to sort of use; is this property going to grow in ag and use the homestay or these other revenue sources as a platform? Or is ag going to stay where it is and these other non-ag activities going to grow instead? I think that's the challenge. And again, we should not put the Department in a regulatory situation where they have to sort of monitor this, but we should put the Department more in terms of planning or use where we allow these to happen and allow it to flourish. Now the question before the Commission is, if we approve the homestay, do we allow...if they could rent it for 365 days a year, is that okay? I think that is a type of...would that help the farming activity? Or does that revenue become so overwhelming that farming becomes immaterial to the activity? And then we have a zoning issue or a classification issue. So again, what we have is what we have, and we need to make that decision. That's for each one of us to sort of view the future land use of this area.

Chair Anderson: If we could have Commissioner Keawe.

Mr. Keawe: I think my concern is just that, and again, talking about Waimea Valley. It's a small, very old community. I can see, just based on her testimony, she is a farmer. I kind of get that. Some of the numbers, obviously we can debate the numbers back and forth. In getting back to Commissioner Katayama, on the broader spectrum, how do we allow people like her to be able to do what he was talking about, maybe less intense agriculture in certain areas? I know that community's very old, but I don't know if there are any other under the radar vacation rentals or homestays operating in Waimea Valley. And I don't know the potential of, if we approve this, do we have more down the road to look forward to? But again, what forum do we use to kind of come up with some guidelines for people that might be right on the edge? And the homestay is kind of helping the farming part of it.

Chair Anderson: Go ahead.

Mr. Abrams: Alright. Taking some of those ideas, I see where your logic is in that if we actually took this homestay and multiplied it out like a vacation rental, and saw the potential revenue; we don't know what they're going to charge. And if we took it out 365 days, took a look at the revenue, and came to the conclusion that it exceeded the farm activity, then that's the point you're getting across, where we change from what we are using right now in order to go ahead and justify through a Special Permit and a Use Permit, the ability to have an overnight accommodation on agricultural land. I guess the criteria for a homestay person right now is going to be that if that happens, then next year when they bring in their renewal, which they are all coming in to do that, they are going to be denied. It sort of puts a rent cap on top of it, which is troubling in itself, but I understand that. Does that apply relative to the situation where gosh, that person could have rented out a room on a long-term basis and took that revenue, and in effect, would not change the perception that is there; although renting out a room, whether it's homestay or not, basically the only difference there is you are dealing with a non-resident as opposed to a resident. Those things sort of flow back and forth with my thoughts in regards to how we characterize this activity on ag land, which is really, at this point right now, up the air because most of all of the arguments we believe one way or the other, we kind of end up thinking with other reasons how it brings to you thinking that gosh, that may be one (1) of the reasons why you shouldn't do it. So we are looking at having to go ahead and come up with this, we're applying something to ag land, we are also advancing what our Counsel has decided as a policy relative to vacation rentals and homestay with the typical uses that go with that and the supervision that goes there to take care of some of these issues that the community is concerned about. Now we come up with the ag portion right now, which at this point, the only criteria is to meet this Use Permit, which has now set an income level threshold in order to be able to do that. I'm thinking that the annual renewal and the review of it is going to help bring to the top those people who are trying to do what we think. But I am concerned because, technically, all of the small parcels that we are talking about that are ag that would seem to meet the criteria of homestay activity are going to be the ones that can't make it because they are not going to be able to raise their farming income activity in order to raise the rents, and that's not going to help, so I don't know; I'm stuck there.

Mr. Katayama: I think what might be helpful is that if there is an ag plan to support this, to show the potential, and again, to give you a sense of scope of the activity. That may help the Department in terms of striking a balance. Is there an ag plan for this activity?

Mr. Dahilig: At least from my review of the documentation, all that was described was a brief mention of the actual ag activity itself; not a comprehensive farm plan that we typically see as part of farming operations.

Mr. Keawe: So Commissioner Katayama, what would be considered an ag plan? Just for the applicants' information, so that they know what an ag plan is and the kind of components that would make up one.

Mr. Katayama: A description of the land use, and how it will be employed in agriculture. And if they would then overlay the ancillary activity to support that; I think it will help. It doesn't have to be elaborate. But if you have a plot and you would identify which portions would be ag, how you view the production to ultimately transform into your ag revenue or value-added product. Whether you do it on-site or not, I think that's not important, but again, at the end of the day, how

the ag activity becomes primary and your ability to develop it to its potential, and you can weigh that against the ancillary activities that the permit is seeking.

Mr. Keawe: Okay.

Chair Anderson: Okay. Is there any further discussion?

Ms. Mendonca: I have a question. It's been bothering me; if I may just put it on the table, and the rest of the Commissioners can help me understand it. If I recall, the concern for homestay and B&B was getting out of hand because of the fact that there were so many illegals; that's one (1) side of the picture. The center part of the picture is the fact that there is also these different community plans coming up for the future; for urban, development, more resort areas/rooms. What is troubling me right now is that we're looking at a lot of these applications that are coming in now in lands that are zoned Agriculture/Residential, and they are out of the TVR areas. Are we not supposed to be monitoring this so we keep it to the minimal? We talk about urban areas so that the locals have homes to rent down the road, but we're talking now on the side of the fence where we have homestays where they are visitors; not rooms for local people to rent. I'm a little bit confused in which direction are we headed? Are we to control the number of homestays and B&Bs? Or are we going to say okay, this person has done an "x" number and need the income for the agriculture where they could easily, like Commissioner Katayama said, rent it out to a local for the whole year and avoid all of this that we're going through. Is it the monetary value for having a tourist come in and stay? Is that the volume of the dollar sign as opposed to a local renting it? That's my question that is going through my head right now, and I'm finding it very difficult to really see which way are we headed? Are we to control B&Bs, control homestays? Or are we to find some kind of direction to meet the end for these people who do need help? The locals do need help. The people who live in residences are saying we don't want visitors, so we're trying to find a happy medium. It gets very tough because we look one (1) direction and then we have another. Maybe we do need some kind of help here in making decisions. But I think basing on what Commissioner Mahoney's motion and following what the Planning Department has done in terms of going through all of this, I still stand by my second.

Chair Anderson: Thank you for this discussion and I believe this is going to continue on in other forms and other applications before us. Right now, we do have a motion, we've had a quite lively discussion. I'm wondering, were those rhetorical questions?

Ms. Mendonca: Yes. (Laughter in background)

Chair Anderson: Okay. So let's go ahead and we'll do a roll call vote.

Mr. Keawe: You want to repeat the motion again?

Mr. Dahilig: Sure. Madam Chair, the motion on the floor is to deny Class IV Zoning Permit Z-IV-2015-37, Use Permit U-2015-36, and Special Permit SP-2015-14, and to adopt Exhibit C as memorializing the denial on behalf of the Commission's motion.

Vice Chair Mahoney?

Mr. Mahoney: Aye.

Mr. Dahilig: Commissioner Katayama?

Mr. Katayama: Aye.

Mr. Dahilig: Commissioner Keawe?

Mr. Keawe: Aye.

Mr. Dahilig: Commissioner Abrams?

Mr. Abrams: No.

Mr. Dahilig: Commissioner Mendonca?

Ms. Mendonca: Aye.

Mr. Dahilig: Chair Anderson?

Chair Anderson: No.

Mr. Dahilig: 4:2, Madam Chair.

Chair Anderson: Okay, so the recommendations of the Department have moved forward and the application is denied.

Ms. King: Sorry.

Mr. Coyaso: May I say something? (Inaudible)

Mr. Dahilig: It's up to you.

Chair Anderson: Yes, you can take the floor, go ahead.

Mr. Coyaso: After listening to you guys debate, I am an absentee landowner, but I was raised here in Kaua'i; grew up in Waimea, lived through Iwa, came back with the Army Guard and helped restore after Iniki. You all bring up good points, but living on O'ahu, I can tell you, you guys need to keep in mind that these homestays in these Residential/Agricultural areas are also going to create traffic. As I recall, that road is pretty small up there. I, myself, did not get to talk to Ms. King's neighbors. My relatives that are here, that have retired here, I did talk to them. One (1) of them appeared because they didn't think I would be able to make it to make my statement that I oppose it, so he was going to try and oppose it if I could not make it. I would just like you to keep in mind, you guys did bring up good ideas, but you have to keep in mind the infrastructure of these urban areas. If you look at O'ahu, you can't throw a rock without hitting a car, and I would hate to see Kaua'i end up like that. This is where I grew up. My community was so tight that when

we were forced to leave, my class carried my name in the yearbook all the way to graduation; that's how tight the community was. It kind of breaks my heart to hear people talk about getting rid of agriculture land because it's too hard to farm on it. There's a lot of people out there that do farm on it. When I retire, I may farm on it. You know, tough times don't last, tough people do. Look at Kaua'i, how many times we have been hit by a hurricane, and the people are still here.

Chair Anderson: Thank you.

Mr. Coyaso: I would like you to consider, the next time somebody comes up here for a homestay, the traffic. If that was next to your home, would you want a stranger going in and out at all times of the night? Because you can't control that. Keep in mind the residents that have lived in these neighborhoods. This river that she talks about that you'd have to swim across, I grew up playing in that thing. I used to run across the river to the Dusenberry's that lived over there. I used to swim in Castle Farm at the very top of Waimea Valley where there is no road anymore. Those are the things that I cherish, and one day I hope to come back and find what was left. I hope I don't see traffic like being stuck in traffic for four (4) hours on O'ahu because the surf is big; or having to deal with somebody selling something, and people coming and going then I have no idea. Like she said, it is a flood zone, so I am not able to fence in my property. You have to keep that in mind, she can walk across that river and get to it because of the flood, because everything gets wiped away. We've had to rebuild, I don't know how many times while living here, and I just pray you guys keep that in mind when you make a decision. The Land and Natural Resources try and do their best, they do the research, just listen to everything before you make a decision.

Chair Anderson: Thank you for your additional comments and for flying over to Kaua'i to give testimony today. We're going to move ahead with the next agenda item.

Mr. Coyaso: Thank you.

Class IV Zoning Permit Z-IV-2015-39, Use Permit U-2015-38 to allow conversion of an existing residence into a homestay operation on a parcel located along the mauka side of Nohea Street within the Kakela Makai Subdivision in Kalāheo, situated approx. 450 ft. west of its intersection with Kakela Makai Drive and further identified as 1196 Nohea Street, Tax Map Key 2-3-023:119, and containing a total area of 10,017 sq. ft. = David & Melinda Murray.

Mr. Dahilig: Madam Chair, the next item on the agenda is F.2.b., Class IV Zoning Permit Z-IV-2015-39 and Use Permit U-2015-38 to allow conversion of an existing residence into a homestay operation on a parcel located along the mauka side of Nohea Street within the Kakela Makai Subdivision in Kalāheo. Again, this is at Tax Map Key 2-3-023:119, and containing a total area of 10,017 square feet.

Jody is our Planner who will present the evaluation and recommendation on behalf of the Department, and can probably give a summary of that report.

Staff Planner Jody Galinato: Good afternoon, Madam Chair and members of the Commission. I'll be as brief as possible, so if you have questions on something or need more clarification, let me know.

Ms. Galinato read a summary of the Project Description and Use, Legal Requirements, Additional Findings, and Preliminary Evaluation sections of the Director's Report for the record (on file with the Planning Department).

I'll hold for the preliminary conclusion and recommendation.

Chair Anderson: Thank you. Is the Applicant here? If you can please approach the mic. And state your name for the record please.

Melinda Murray: My name is Melinda Murray and this is my husband, David Murray. Thank you, again, for all the time you spend on this. It's been an educational experience for myself.

Chair Anderson: Have you had the opportunity to review the Director's Report? And do you have any questions or comments? Or are you in agreeance with the conditions as set forth?

Melinda Murray: Yes. I did have one (1) comment I did want to make in regards to the...I'm drawing a blank, it's very nerve-racking with everybody looking at you...the complaint. It was by our Homeowner's Association that we did not have a permit; thus, we sought a permit. My neighborhood Homeowner's Association is fully aware of my application and have already met together regarding this application with no intent to oblige against it as we move forward with the application. Just wanted to make that note.

Chair Anderson: Thank you.

Did you have anything else you wanted to add?

Ms. Murray: No. Jody did a wonderful job; thank you Jody.

Chair Anderson: Does the Commission have any questions for the Planner or for the Applicant?

Mr. Keawe: When did you originally get into this business?

Ms. Murray: I believe it was around 2012.

Mr. Keawe: And why did you do it?

Ms. Murray: As a way to supplement our income because we have three (3) children, we both have jobs, and we have a very big mortgage.

Mr. Keawe: Okay. So should you be approved, you have enough space for everybody, including the guests that'll be coming in?

Ms. Murray: Yes, we do. We have a four (4) bedroom home. We have a four (4) bathroom home. Yes.

Mr. Keawe: Okay.

Ms. Murray: We have photos if you need them.

Chair Anderson: Any other questions?

Okay, so if I could have Jody, if you could just read the recommendation; no need to read the conditions as we've reviewed them.

Ms. Galinato: Okay.

Ms. Galinato read the Preliminary Recommendation section of the Director's Report for the record.

Chair Anderson: Okay, thank you. Do I have a motion?

Mr. Abrams: Move to approve Staff's recommendation for Class IV Zoning Permit Z-IV-2015-39 and Use Permit U-2015-38, David and Melinda Murray.

Mr. Keawe: Second.

Chair Anderson: All those in favor? (Unanimous voice vote) Any opposed? (None) Motion carries 7:0. It's been approved. Thank you.

Ms. Murray: Mahalo. Thank you so much.

Mr. Dahilig: Madam Chair that concludes the action items for today's agenda.

ANNOUNCEMENTS

Topics for Future Meetings

The following scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Līhu'e Civic Center, Mo'ikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i 96766 on Tuesday, August 25, 2015.

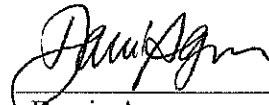
Mr. Dahilig: We have circulated the batting order for the next few meetings. And again, the last page is all the pending Contested Case Hearings for the Commission's information. The next following scheduled meeting will be in this room on Tuesday, August 25, 2015.

Chair Anderson: Okay. With that, this meeting is adjourned.

ADJOURNMENT

Chair Anderson adjourned the meeting at 12:44 p.m.

Respectfully submitted by:



Darcie Agaran,
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.